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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/643,386	08/18/2003	Paul C. Wacker	H0005399 US	3629

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EXAMINER

NORMAN, MARC E

ART UNIT	PAPER NUMBER
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3744

DATE MAILED: 10/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/643,386

Applicant(s)

WACKER ET AL.

Examiner

Marc E. Norman

Art Unit

3744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 29-56 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 29-33, 36-39, 41-53 and 55 is/are rejected.
- 7) ☒ Claim(s) 34, 35, 40, 54 and 56 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 8/6/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claims 1-28 are cancelled. New claims 29-56 are pending and examined on the merits below.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 29-33, 41, 42, 51-53, and 55 are rejected under 35 U.S.C. 102(b) as being anticipated by Kline et al.

As per claim 29, Kline et al. discloses a portable configuring apparatus (PDA's, see column 3, lines 11-12; column 4, lines 6 and 10-11), and the portable device being connectable to configure a plurality of environmental control devices (column 3, lines 2-3).

As per claims 30 and 32, Kline et al. discloses upload/download ports (column 4, line 9) for transferring configuration data to and from the control devices.

As per claim 31, Kline et al. discloses modifying the configuration (column 4, lines 14-17).

As per claim 33, Kline et al. discloses a PDA (PDA's, see column 3, lines 11-12; column 4, lines 6 and 10-11).

Art Unit: 3744

As per claim 41, Kline et al. discloses monitoring the environmental control system (column 4, lines 19-21).

As per claim 42, Kline et al. discloses modifying multiple configurations of multiple air management systems (i.e., for each of the VAV devices being controlled).

As per claims 51-53 and 55, Kline et al. discloses the storing, modifying, downloading, uploading, monitoring, and control capabilities as already discussed.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 36-39 and 43-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kline et al.

As per claims 36, 39, and 43, Kline et al. does not directly teach downloading installation, calibration, or default configurations. However, official notice is taken that these are

Art Unit: 3744

all common features of HVAC monitoring/control systems and, to the extent that the system of Kline et al. downloads control/configuration information, it would have been obvious to one of ordinary skill in the art to use the system of Kline et al. to download such information for the simple purpose of more fully managing the operation of the environmental control devices.

As per claim 37, official notice is taken that archive/backup systems are common and well-known features of PDA's, regardless of the present application.

As per claim 38, official notice is taken that the logo and contact information is not functionally applied within the claim, and thus is simply non-functional descriptive matter. As such, it is not accorded patentable weight.

As per claim 44, Kline et al. teaches all the features of this claim (as discussed above) except the air management systems being in buildings at different locations. However, applying the system of Kline to more than one building is simply a matter of scale. It would have been an obvious matter to apply the system of Kline to more than one building in order to expand the utility of the system, since this is a simple matter in view of the internet connectivity shown in Figures 3 and 4.

As per claim 45, official notice is taken that the building addresses are not functionally applied within the claim, and thus are simply non-functional descriptive matter. As such, this limitation is not accorded patentable weight.

As per claim 46, official notice is further taken that to the extent that plural locations are controlled, it would be obvious to assign control configurations according to these locations as a simple matter of bookkeeping (further, it is noted that Kline et al. does keep track according to the locations of control configurations of the multiple VAV control devices).

Art Unit: 3744

As per claim 47, Kline et al. teaches the PDA modifying the configuration (column 4, lines 14-17).

As per claim 48, Kline et al. teaches downloading/uploading as already discussed (see claims 30 and 32).

As per claims 49 and 50, Kline et al. teaches parameters/mechanisms including temperature, valves, sensors, etc.

Allowable Subject Matter

Claims 34, 35, 40, 54, and 56 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

Art Unit: 3744


however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc E. Norman whose telephone number is 703-305-2711. The examiner can normally be reached on Mon.-Fri., 8:00-5:30, with first Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Denise Esquivel can be reached on 703-308-2597. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MN



MARC NORMAN
PRIMARY EXAMINER